IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 24.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.142 of 2006

Kamala ... Petitioner

Vs.

1. The Commissioner of Police,
   Greater Chennai, Egmore,
   Chennai-8.

2. The Secretary to Government of Tamil Nadu,
   Prohibition and Excise Department,
   Fort St. George, Chennai-600 009. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the first respondent in connection with the order of the first respondent dated 07.06.2005 in Memo No.266/BDFGISV/2005 detaining Sekar son of Krishnan aged about 38 years as a Goonda under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the body of the said detenu now lodged in the Central Prison, Chennai before this Court and set him at liberty.

For Petitioner : Mr.D.Kiraharaj
For Respondents : Mr.Abudhukumar Rajarathinam
Govt. Advocate (Crl. Side)

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the mother of the detenu by name Sekar, who was detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 07.06.2005, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 22.06.2005 was received by the Government on 24.06.2005 and remarks were called for on 27.06.2005. Thereafter, the remarks were received by the Government on 04.07.2005 and the File was submitted on 05.07.2005 and the same was dealt with by the Under Secretary on the same day i.e. on 05.07.2005 and by the Deputy Secretary on 06.07.2005 and finally, the Minister for Prohibition and Excise passed orders on the same date i.e. on 06.07.2005. The rejection letter was prepared on 15.07.2005 and the same was sent to the detenu on 18.07.2005 and served to him on 19.07.2005. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 06.07.2005, there is no explanation at all for taking time for preparation of rejection letter till 15.07.2005. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to the Government,
   State of Tamil Nadu,Prohibition
     and Excise Department,
   Fort St. George, Chennai-600 009.

2. The Commissioner of Police,
   Greater Chennai, Egmore, Chennai-8

3. The Superintendent, Central Prison, Chennai.
     (In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.142 of 2006

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RSM/28.4.2006

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